SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

November 16, 2001

PART A
SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. Personnel Report *(DiAnne Broussard)*

Recruitment

We are conducting interviews for two Senior Water Resource Control Engineers (or Senior Environmental Scientists) to supervise the Pollutant Load Reduction Program Unit and the Compliance Assurance Unit. We are hoping to receive freeze exemptions to allow us to fill both positions. We are also recruiting for a Water Resources Control Engineer in the Watershed Protection Northern Region Unit and for an Office Technician to work in the file room and assist with front office responsibilities.

New Employee Hires

We hired former student assistant Shane Landry as an Office Assistant to fill the vacancy that was created when Denise Rhaney promoted to Information Systems Technician. Shane began work in his new assignment on October 24.

Employee Separations

Kyle Olewnik resigned from her position in the Water Quality Standards Unit to accept a position with an engineering firm in the private sector. Joan Brackin resigned from her position with the Pollutant Load Reduction Program Unit.

2. Student Intern Program *(DiAnne Broussard)*

We have five new students on board. David Elsheikh is an Information Systems major at SDSU. He is working for Bob Rossi in the Information Systems Unit. Kelsi Nelson is a Chemical Engineering major at UCSD. She is working for both the Northern and Southern Watershed Protection Units. Samara Levine is an Environmental Systems major at UCSD. Brett Winkelhake is majoring in Public Administration at SDSU. They are both working for Mark Alpert in the Compliance Assurance Unit. Stacey Hull is majoring in Public and Environmental Health at SDSU. She is working for Bob Morris in the Watershed Protection Northern Region Unit.

3. Visitors to the Office *(DiAnne Broussard)*

During the month of October 2001, we received 253 visitors to the Regional Board office. A total of 2044 persons have visited the Regional Board office so far this year.
The total number of visitors to the office reached 2,354 for the entire year in 2000.

4. MTBE Groundwater Well Protection Activities in the Temecula Valley *(Barry Pulver)*
Staff of the Tank Site Mitigation and Cleanup Unit (TSMC), arranged a meeting between Ms. Shahla Farahnak of the State Water Resources Control Board Leak Prevention Research Unit and the City of Temecula to discuss measures that can be taken to improve the leak performance of underground storage tank systems. At the November 1, 2001 meeting Ms. Farahnak recommended that secondary containment be installed for all underground storage tanks and underground piping, and that enhanced leak detection testing, such as tracer tight testing and testing of spill buckets, be conducted on a regular basis. City of Temecula representatives requested that the TSMC present these recommendations in a letter. They will then met with the City Attorney to see if they can require these recommendations be incorporated as a condition of approval of permits for new gasoline service stations.

Since July 2001, the TSMC issued Water Code section 13267 directives for technical reports on soil and groundwater investigations at three operating gasoline service stations in the Temecula Valley area. All three stations are located within 1,000 feet of a water supply well, have not had any detected releases of gasoline, and were constructed approximately five years ago. MTBE was detected in the soil and groundwater beneath all three stations indicating that releases of MTBE have occurred from the tanks and/or related piping that were not discovered by the leak detection systems. This result is consistent with the State Water Resources Control Board's preliminary results from research at stations in Sacramento and Yolo Counties.

Staff continues to use Water Code section 13267 to ensure that site assessment tasks are completed in a timely manner at Temecula facilities in the UST Cleanup Oversight Program. Section 13267 directives were issued to Bianchi International to conduct a soil and groundwater investigation, and to Summit Energy for a workplan to conduct enhanced leak detection.

Chevron Products, Inc., received a Notice of Violation for failure to submit a technical report due on November 6, 2001.

5. Healthy Watersheds: Community-Based Partnerships for Environmental Decisionmaking *(Jeremy Haas)*
In September two staff members, Benjamin Tobler and Jeremy Haas, participated in a two-week training seminar in Sacramento on developing watershed management plans through community-based partnerships. The training will help the Watershed Protection Units facilitate local watershed management and planning efforts that secure long-term acceptance, especially where progress is currently impeded by internal conflict or lack of community support. The program was sponsored by CALFED and attended by approximately 40 participants from state agencies, local governments, water agencies, and citizen groups from throughout California. Topics covered in daily classroom lectures included science, policy, economics, management, facilitation, and leadership skills. Evenings were devoted to a watershed management case study during which

groups developed a watershed management plan for a local tributary of the Sacramento River.

6. Liner Construction Training, Los Angeles RWQCB *(John Odermatt)*
During October 23 and 24, 2001, staff from the Land Discharge Unit (LDU) attended technical training sponsored by the State Water Resources Control Board (SWRCB) and held at the office of Region 4 (LA RWQCB). The two-day training was a technical update on all aspects of constructing liner systems for wastes management units (e.g., landfills, surface impoundments, and waste piles) regulated by the Regional Board pursuant to California Code of Regulations (CCR), Title 23 (CHAPTER 15) and Title 27. The training offered LDU staff a unique opportunity to interact with industry representatives addressing technical aspects of liner engineering/design and field construction of liner systems. It also provided a valuable forum for interaction with technical staff from other Regional Boards concerning issues encountered regulating liner construction work at municipal solid waste (MSW) Class III landfills. The training ended with a field trip to see liner installation techniques being applied at a nearby MSW landfill at Sunshine Canyon located in the Los Angeles.

7. Erosion and Sediment Control Training, San Diego *(John Odermatt)*
During October and November 2001, the LDU staff attended technical training on erosion/sediment control methods and best management practices (BMPs). The two-day training was sponsored jointly by the Engineering General Contractors Association (EGCA) and the City of San Diego. Often, the construction and operation of waste management units (e.g., landfills and waste piles) include sediment discharges that are analogous to very long term construction projects. As a result, many of the BMPs employed for the control of sediment discharges from construction sites may also be applicable to various phases of construction and operation of WMUs. The erosion and sediment control training offered the LDU staff an opportunity to learn more about selection/implementation of effective short and long-term BMPs during the classroom seminar (day 1) and through actual field installation of BMPs (on day 2). The training was valuable to the LDU staff as they continue to work with dischargers in developing effective BMPs to control erosion and sediment discharges from WMUs regulated by the Regional Board pursuant to California Code of Regulations (CCR), Title 23 (CHAPTER 15) and Title 27.

8. SWIM Database Update and Training *(Bob Rossi, Denise Rhaney and John Odermatt)*
The current SWIM database is the first version of a developing statewide database system designed to record and track the regulatory work of all the Regional Boards. The Regional Board staff anticipates that SWIM II, including Geographic Information, will eventually replace the current version of SWIM System (GIS) component as part of a fully web based system. In preparation for wider access to the SWIM database by San Diego Regional Board staff, the data fields used to identify staff fields were significantly modified for database security. In order to prepare for wider use of the SWIM database in Region 9, Regional Board staff has tentatively scheduled an in-house SWIM training

seminar for senior staff on December 13, 2001. The staff will continue to provide SWIM updates to the Regional Board in future Executive Officer Reports.

9. Presentations and Workshops *(Benjamin Tobler)*
In September, staff from the Southern and Northern Watershed Protection Units participated in presentations to educate the construction community on topics related to compliance with the General Construction Permit. Large groups (25-200) were coordinated by the City of San Diego & the Engineering General Contractors Association (a partnership offering bi-monthly courses with multi-agency participation), the American General Contractors, the American Public Works Association and select private construction sites. Topics included effective Erosion and Sediment Control, proper Pollution Prevention and Storm Water Pollution Prevention Plan updating. Emphasis was placed on the new requirements for Water Quality Sampling and Pollution Prevention. Much stronger than usual attendance was noted.

PART B
SIGNIFICANT REGIONAL WATER QUALITY ISSUES

1. Sanitary Sewer Overflows (SSO) *(Victor Vasquez, Adam Laputz, Chiara Clemente, David Hanson, Bryan Ott)*
In October 2001 there were 32 sanitary sewer overflows from public sewage collection systems reported to the Regional Board office; 17 of these spills reached surface waters or storm drains, but none resulted in closure of recreational waters. Of the total number of overflows from public systems, eight were 1,000-gallons or more. An additional 13 sewage overflows from private property were also reported in October, of which five reached surface waters or storm drains. None of the private property spills were 1,000 gallons or more, and none resulted in closure of recreational waters. Regional Board staff has updated the sewer overflow statistics for each sewer agency by fiscal year since FY 1998-99 in the attached table entitled "Sanitary Sewer Overflow Statistics."

Two Notices of Violation (NOV) with a Request for Technical Information (RTI) were issued in October for significant overflows that were reported since September. In addition, several NOVs and/or RTIs are pending issuance for significant sewage spills since August. Upon receipt of the information, we will determine if additional enforcement action is warranted. NOVs with RTIs have been issued to the following agencies:

City of Laguna Beach
The City of Laguna Beach reported a 30,000-gallon sanitary sewer overflow from a private service lateral located at 526 Glenneyre Street, Laguna Beach, that began on June 15, 2000, and was terminated on September 17, 2001. The overflow resulted from the failure of the City's contractor to reconnect the service lateral to a newly installed main sewer line, and the discharge of sewage percolated into the ground.

El Toro Water District
El Toro Water District reported a 300-gallon sanitary sewer overflow from the District's collection system at B-907 Rhonda Sevilla, Laguna Woods, that occurred on September 21, 2001. The overflow discharged to Aliso Creek, tributary to the Pacific Ocean. The overflow resulted from a line blockage in a sewer syphon.

2. Total Maximum Daily Load (TMDL) Activities Update *(Alan Monji)*

TMDL Overview
In accordance with Section 303(d) of the Clean Water Act (CWA), the state must identify waterbodies that are not meeting water quality standards based on available pollution controls. The CWA also requires states to establish a priority ranking for waters on the 303(d) list of impaired waters and establish Total Maximum Daily Loads (TMDLs) for such waters.

A TMDL is an action plan for reducing and allocating the loads of a specific pollutant to an impaired water body. TMDLs are developed for the purpose of ensuring that water quality standards are attained and beneficial uses restored. Specifically, a TMDL is (1) a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards (i.e., it is a waterbody's total assimilative capacity) and; (2) it is an allocation of that maximum amount amongst all of the contributing point and non-point sources of the pollutants within a watershed (i.e., it is the sum of the allowable loads from all sources). TMDLs are both waterbody and pollutant specific. The TMDL process provides stringent water quality-based controls when technology based controls prove to be inadequate to achieve water quality standards.

The first six tasks in the "development phase" of a TMDL include preparation of the Problem Statement, Numeric Target, Source Analysis, Linkage Analysis, Load Allocations and Wasteload Allocations, and Margin of Safety. Together these elements comprise what is commonly known as a "Technical TMDL". Other considerations in TMDL development include seasonal variations and critical conditions.

- Problem Statement: Describes the water qaulity standards(s) which are being exceeded, the resulting beneficial use(s) which are impaired, and the nature of the impairment.

- Numeric Targets: Specific quantitative goals, conditions, or endpoints for the water body which equate to attainment of water quality standards and protection of beneficial uses (i.e., numeric targets describe the future desired condition(s) for the waterbody.) Where the applicable water quality standards are expressed in numeric terms, the numeric targets are typically set equal to the numeric water quality standards. Where the water quality standards are expressed in narrative terms, the numeric targets are a "quantitative interpretation" of the narrative standard. Numeric targets are often based on endpoints other than strict avoidance of exceedances. For example a numeric target can describe a required reduction of pollutant loads or a required restoration of a particular habitat condition in quantitative terms. The

essential prerequisite for all numeric targets is that they ultimately result in attainment of water quality standards. Numeric targets are not directly enforecable but are used to assess progress towards attainment of standards.

- Source Analysis: Describes all known point, non-point, and background sources of pollutants in the watershed that are contributing to the exceedance of standards and beneficial use impairment (i.e., it is an estimate of the total amount of pollutants entering the receiving water). The source analysis describes the location, magnitude and timing of each pollutant source and provides the key basis for determining the level of pollutant reduction needed to meet water quality standards and the allowable total maximum daily load.

- Linkage Analysis: Describes how the actions to be taken will result in attainment of the relevant water quality standard(s). Specifically, the linkage analysis describes the relationship between the numeric targets and the pollutants by determining the waterbody's total assimilative capacity or loading capacity for the pollutant(s). The linkage analysis represents the critical quantitative link between the TMDL and the attainment of water quality standards.

- Load and Wasteload Allocations: The load allocation (LA) is the portion of the total maximum daily load allocated collectively to the non-point sources and the natural background sources of the pollutant(s) of concern. The wasteload allocation (WLA) is the portion of the total maximum daily load allocated collectively to the point sources of the pollutant(s) of concern. WLAs can be included in NPDES permits as numeric effluent limitations.

- Margin of Safety: Accounts for the uncertainty in our understanding of the relationship between the pollutant loads and the resulting quality of the receiving waterbody. A Margin of Safety (MOS) must be incorporated into the TMDL for each pollutant and may be explicit (e.g., a specific allocation assigned to the MOS) and/or implicit (e.g., use of conservative assumptions in analysis).

In quantitative terms, a TMDL can be defined as follows:

TMDL = WLA + LA + MOS

When the development phase is near completion, the "Implementation Planning" phase begins. The Implementation Plan describes best management practices, point source controls or other actions necessary to implement the TMDL. The Plan describes how and when necessary controls / restoration actions will be accomplished, and who is responsible for implementation. Developing a Monitoring Strategy is also part of Implementation Planning. The Monitoring Strategy specifies the monitoring activities needed to assess the effectiveness of the TMDL and includes a schedule for reviewing and (if necessary) revising the TMDL and associated implementation elements. Stakeholder participation is an essential part of TMDL development and implementation.

The draft technical TMDL, Implementation Plan, Monitoring Strategy, and proposed Basin Plan Amendment are subject to independent scientific peer review. Upon responding to peer review comments and making appropriate revisions, the formal public review process begins. This process will culminate in a formal public hearing in which the Regional Board will consider adoption of the Basin Plan Amendment. Incorporation of the regulatory provisions of the TMDL into the Basin Plan is the mechanism that makes the TMDL enforceable and ensures its implementation.

Upon adoption by the Regional Board, the TMDL is subject to approval by the State Board, the Office of Administrative Law (OAL) and USEPA. Only upon approval by USEPA is the TMDL effective. The final phase, "Implementation" by the responsible parties is overseen by the Regional Board.

Additional TMDL information and guidance documents can be found on the World Wide Web. Some useful web sites are listed below. www.EPA.gov/OWOW/tmdl/decisions; www.swrcb.ca.gov/rwqcb9/TMDL/tmdl; www.swrcb.ca.gov/quality.

General Progress on TMDL Projects
Currently, there are seven TMDLs in progress. Two of the seven, Chollas Creek – Diazinon and Rainbow Creek – Nutrients, will be presented to the Regional Board for consideration of adoption this fiscal year, tentatively April 2002.

Chollas Creek - Diazinon *(Linda Pardy)*
The draft technical TMDL has been formally peer reviewed and staff has responded to all peer reviewer comments. Where appropriate, changes were made to the draft technical TMDL to accommodate reviewer concerns. The Implementation and Monitoring Plan has been completed and the entire package is currently undergoing internal management review. Staff also plans to resubmit the revised TMDL package to USEPA and the State Board for informal review.

The final three components of the Chollas Creek TMDL, the Economic Consideration, CEQA checklist, and Basin Plan Amendment are temporarily on hold. The unit has experienced the loss of three key project staff. As a result, workloads and priorities are currently being reassigned within the TMDL unit.

Rainbow Creek - Nutrients *(Lisa Brown)*
The technical TMDL, Implementation Plan, Monitoring Strategy, and the draft amendment language will be submitted to the three scientific peer reviewers once management review has been completed. The formal scientific peer review is expected to be completed 45 days from the reviewer's receipt of the TMDL package.

The entire package was resubmitted to USEPA and the State Board for informal review. USEPA responded but made no comments. Comments were received from State Board

staff and incorporated. Additionally, draft amendment language received legal review from the Regional Board attorney and the changes were incorporated into both the amendment language and the staff report.

Chollas Creek - Metals *(Lisa Brown)*
The draft Problem Statement, Numeric Targets, and Source Analysis have been submitted to USEPA for review, and these draft documents are posted on the Regional Board web site. So far, USEPA has only minor comments on these drafts. The Industrial Environmental Association (IEA) has also provided comments on these drafts.

The drafts of the Load Allocations, Linkage Analysis, and Margin of Safety are complete and have been reviewed by Regional Board staff. However, these drafts are under revision since new data were collected in Chollas Creek after the original drafts were completed, and the data may alter load allocations and source estimates. These revisions will be made as soon as possible so that the drafts can be forwarded to USEPA for review. The Chollas Creek draft revisions are on hold while staff responsible for this TMDL first focuses attention on completing the Rainbow Creek TMDL. The drafts should be revised by January 2002.

Shelter Island Yacht Basin - Dissolved Copper *(Lesley Dobalian and Christina Arias)*
The draft technical TMDL is complete and is posted on the Regional Board web site. The Implementation and Monitoring Plan is nearing completion, and should be available for review in late November. Staff is in the process of arranging for peer review of the final draft. Staff is also compiling and organizing the administrative record.

San Diego Bay / Near Chollas Creek – Contaminated Sediment *(Alan Monji and Tom Alo)*
The mouth of Chollas Creek is one of the five designated hotspots in San Diego Bay identified by the Bay Protection and Toxic Cleanup Program (BPTCP). Work has begun on the draft Problem Statement and Numeric Targets for Near Chollas Creek TMDL. Currently, background information and site assessment reports for San Diego Bay are under review. Rough draft versions of the Problem Statement and Numeric Targets have been submitted to selected in-house staff for review and comment.

At a meeting held on June 5, 2001 with representatives from U.S. Navy, Port of San Diego, City of San Diego, Southern California Coastal Waters Research Project (SCCWRP), and the Regional Board staff, consensus was reached on the final draft work plan for the mouth of Chollas Creek and Seventh Street channel. The work plan was presented to the public at the Sediment Remediation Workshop on August 3, 2001.

Sampling activities for the mouth and channel of Chollas Creek occurred on July 17-18, 2001. Sediment samples were collected for toxicity testing, bioaccumulation testing, sediment chemistry, and benthic community studies. The toxicity testing portion has been completed by SCCWRP. Data analysis and draft report is in progress. Work continues on the bioaccumulation tests, sediment chemistry, and benthic community analysis.

San Diego Bay / Seventh Street Channel – Contaminated Sediment *(Tom Alo and Alan Monji)*
The mouth of Paleta Creek/Seventh Street Channel is one of the five designated hotspots in San Diego Bay identified by the BPTCP. Work has begun on the draft Problem Statement and Numeric Targets for Seventh Street Channel TMDL. Currently, background information and site assessment reports for San Diego Bay are under review. Rough draft versions of the Problem Statement and Numeric Targets have been submitted to selected in-house staff for review and comment.

At a meeting held on June 5, 2001 with representatives from U.S. Navy, Port of San Diego, City of San Diego, SCCWRP, and the Regional Board, consensus was reached on the final draft work plan for the mouth of Chollas Creek and Seventh Street channel. The work plan was presented to the public at the Sediment Remediation Workshop on August 3, 2001.

Sampling activities for the Seventh Street Channel/Paleta Creek hotspot area occurred on August 27-28, 2001. Sediment samples were collected for toxicity testing, bioaccumulation testing, sediment chemistry, and benthic community studies.

Mission Bay – Bacteria *(Christina Arias and Lesley Dobalian)*
The Mission Bay TMDL for coliform has been re-assigned to Christina Arias, Water Resources Control Engineer, and Lesley Dobalian, Environmental Scientist. Since the new assignment, staff has been reviewing information pertaining to this project.

Approximately $5.5 million has been committed to fund research projects needed for the source analysis portion of the Mission Bay TMDL, which addresses elevated indicator bacterial levels. The funding comes from three sources. Approximately $1 million originates from the Cleanup and Abatement Account, $3 million is from the Governor's Clean Beach Initiative, and $1.5 million is from Supplemental Environmental Projects (SEPs) which are part of Administrative Civil Liability settlements with the City of San Diego for recent sewage spills. The combined sources will fund three major projects. A combined virology / epidemiology study will evaluate the potential risk to human health associated with elevated indicator bacterial levels and will build on information developed during the 1996 Santa Monica Bay Epidemiology study. In addition, a contaminant dispersion study will result in an understanding of the movement of contaminants within the eastern portion of Mission Bay. Finally, a watershed study involves bacterial monitoring along strategic locations in the watershed, in order to learn the sources of indicator bacterial impairment in Mission Bay. Three other studies have been proposed by the City of San Diego, but are not yet finalized.

It is believed that the information generated from these projects will be directly applicable to numerous other beach areas in the Region also plagued by elevated indicator bacterial levels. Additionally, this information may be useful on a statewide, or even nationwide basis.

Staff is currently working with the City of San Diego and contributing research groups to develop a workplan and implementation schedule for these projects. A meeting was held on November 1, 2001 with the City and Southern California Coastal Water Research Project (SCCWRP) for this purpose.

3. Clean Water Act Section 401 Water Quality Certifications Issued in October 2001
(*Stacey Baczkowski*)

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	CERTIFICATION ACTION
10/3/01	Encinitas Ranch, LLC	Quail Gardens Extension	Construction of approximately 1800 linear feet of Quail Gardens Drive with storm drains, utilities and landscaping.	Standard
10/4/01	The Eadington Companies, LLC	Eadington Company; Jesmond Dene Property	Construction of residential development.	Standard
10/10/01	City Of San Juan Capistrano, Public Works Department	La Ronda Channel Repair	Repair an eroded segment of La Ronda Channel.	Standard
10/10/01	South Orange County Wastewater Authority	Short Term Repair of Effluent Transmission Main	Repair a sewer pipeline that crosses Aliso Creek	Conditional
10/23/01	Highpointe Communities	Wanis View Estates	Residential development of 301 single family homes on a 184.9-acre site. Approx. 97.3 of the 184.9 acres will be preserved as open space, including 93% of Hubbert Lake.	Conditional
10/23/01	Tucalota Hills Associates, LLC	French Valley	Development of a 607.8 acre site known as French Valley, an area of Riverside County. Land uses include residential, parks, schools, roadways, open space, commercial.	Conditional
10/23/01	Rainbow Municipal Water District	Gird Road Bridge Pipeline Relocation Project	Relocate an existing 15-inch sewer pipeline & construct a manhole.	Conditional
10/23/01	County of San Diego, Department Of Public Works	Gird Road Bridge Replacement	Replace an existing bridge located on Gird Road.	Conditional
10/23/01	North San Diego County Transit District	Culvert Rehabilitation at MCB Camp Pendleton	Structural rehabilitation of a 12' x 8' storm culvert.	Standard
10/23/01	Marine Corps Base Camp Pendleton	Red Beach Culvert Repair at MCB Camp Pendleton	Repair/partial replacement of an existing 36" diameter storm culvert on the north/south access road	Standard

			paralleling the I-5 in the Red Beach training area.	

Public notification of pending 401 Water Quality Certification applications can be found on our web site at http://www.swrcb.ca.gov/rwqcb9/Programs/Special_Programs/401_Certification/401_certification.html.

4. Presentation on the State Board's Aquatic Pesticide Emergency General NPDES Permit No. 2001-12-DWQ *(Pete Michael)*

On October 6, staff member Pete Michael participated on a panel sponsored by the California Exotic Plant Pest Council (CalEPPC) during its annual symposium held in San Diego. CalEPPC is a non-profit organization dedicated to educating land managers in the need to preserve natural plant diversity.

The new State Water Resources Control Board emergency general NPDES permit applies to public entity applicators of registered aquatic pesticides. The emergency permit was adopted by the State Board on July 19, 2001. A representative from the state board, Mr. Larry Nash, presented the permit program and Mr. Michael presented a regional perspective. These points were brought out during the discussion:

- The Ninth Circuit Court's March 2001 Headwaters vs. Talent Irrigation District decision precipitated the need for an emergency general NPDES permit for aquatic pesticide applications. The permit would consider site-specific conditions not covered under the federal pesticide law.
- Regional boards may issue individual NPDES permits to dischargers who do not qualify for coverage under the general permit. The regions may also issue individual permits to public entities qualified to obtain the emergency general permit.
- The state board's emergency general permit provides a categorical exception to the state implementation policy for inland waters, bays and estuaries for aquatic pesticide applications. The emergency general permit allows numeric effluent limitations for priority pollutants in surface waters to be exceeded seasonally.
- The emergency general permit provides a temporary categorical exemption from complying with the California Environmental Quality Act (CEQA). The existing emergency permit, which expires January 31, 2004, requires dischargers to begin obtaining information to comply with CEQA when the non-emergency general permit takes effect.
- The state board is being sued by DeltaKeeper and San Francisco BayKeeper for issuing an emergency general NPDES permit which does not require attainment of numeric standards for priority pollutants during the project period, and for other reasons. DeltaKeeper and San Francisco BayKeeper maintain that no emergency exists. The suit asks that the general permit be set aside or modified, yet the lawsuit does not challenge the application of aquatic pesticides to control mosquitoes and other disease vectors.
- Aquatic pesticide applicators who file notices of intent to obtain coverage under the emergency general permit and who discharge pollutants are named as "real parties in interest" under the same suit. In addition, 14 water districts and other authorities are

specifically named as parties in the suit. The suit asks for reimbursement of attorney and consultant costs.

- Aquatic pesticide applicators who do not file notices of intent to obtain coverage under the emergency general permit and who do not have individual NPDES permit coverage from a regional board are subject to lawsuits by citizens under the Clean Water Act for discharging pollutants to U.S. waters without a permit.

The permit may be downloaded from the Division of Water Quality page at the State Board's website, www.swrcb.ca.gov/.

5. Aquatic Pesticide Permit Coverage in San Diego Region *(Pete Michael)*
Three notices of intent have been filed by public entities for coverage in the San Diego Region under the State Board's aquatic pesticide emergency general NPDES permit. This permit was issued in response to the *Headwaters vs. Talent Irrigation District* by the Ninth Circuit Court. In July the Metropolitan Water District filed a notice of intent for application of copper sulfate to Lake Skinner. The Orange County Public Facilities Department filed a notice in late October for application of the herbicide glyphosate to aquatic vegetation and the City of Escondido is currently filing a notice with the state board. Monitoring plans are due by March 1, 2001 and monitoring programs must begin by July 1, 2001. By mid October, 43 notices of intent had been received statewide. Please see the related report, *Presentation on the State Board's Aquatic Pesticide Emergency General NPDES Permit No. 2001-12-DWQ*.

6. SB 315, San Diego Advisory Committee for Environmentally Superior Antifouling Paints *(Pete Michael)*
A new advisory committee has been established under a bill introduced by Senator Dede Alpert and signed by the Governor on October 4, 2001. This bill creates a committee to advise the University of California in the preparation of a report to identify incentives to the use of non-toxic coatings on recreational boats. At least thirteen organizations would participate on the committee for two-year terms.

Participants
Representatives would be appointed by Commissioners of the San Diego Unified Port District and would include the San Diego Regional Board as well as the Association of Yacht Clubs, Port Tenants Association, Sea Grant, Professional Divers Association, Environmental Health Coalition, Department of Pesticide Regulation, boatyards, recreational boaters, Navy, and others. Fifty thousand dollars were appropriated from the Harbors and Watercraft Revolving Fund for preparation of the U.C. report which is due December 31, 2002. No organization is designated under the legislation to chair the committee. Incentives to be investigated include cost, hull maintenance, determination of the effectiveness of incentives, and term of the incentives. The advisory committee's diverse membership is the outcome of discussions between the San Diego Port Tenants Association and the Environmental Health Coalition.

Need for Incentives to Reduce Copper Concentrations

In a consultant report prepared by Peter Stang for the San Diego Interagency Water Quality Panel (Bay Panel) and in reports prepared by Aldis Valkirs of the Navy SPAWAR lab in San Diego, boat hull paints accounted for the vast majority of copper inputs to San Diego Bay. Other activities have contributed to the need to promote the use of less-toxic hull coatings on recreational boats. The 1990 San Diego Bay Symposium, chaired by Sea Grant and sponsored by the Bay Panel, recommended development and increased use of non-toxic hull paints. The 1998 San Diego Bay Comprehensive Management Plan of the Bay Panel also recommended increased use of non-toxic hull paints. San Diego Regional Board water sampling in 2000 to evaluate copper concentrations at the Shelter Island yacht harbor in north San Diego Bay confirmed the need to reduce copper levels. Currently, the yacht harbor is listed as impaired due to copper. A conference sponsored by Sea Grant was held in San Diego in 2000 to review the availability and types of non-toxic paints available to recreational boaters. This conference was heavily attended by representatives of North American and overseas firms which formulate or intend to formulate non-toxic coatings. Two Section 319(h) projects are now underway: the non-toxic hull paint demonstration project by University of California/Sea Grant (Leigh Johnson) and diver best management practices evaluation by the Southern California Coastal Water Research Project (Ken Schiff).

Clean Water Act Implications

Increased use of non-toxic or less-toxic paints regulated under pesticide laws could help achieve Clean Water Act goals as well. Reducing the use of less-toxic and non-toxic hull paints is one of the ways to reduce copper levels in portions of San Diego Bay. The Federal Insecticide, Fungicide, and Rodenticide Act is the main law governing pesticides, including copper, used in antifouling paints. The Department of Pesticide Regulation is the lead California agency to administer this program. However, with the introduction of the Clean Water Act Section 303(d) list of impaired water bodies, USEPA now requires the states to determine total maximum daily loads of pollutants under the TMDL program for impaired waters.

See Attachment B-6: SB 315 (Chapter 469 Statutes of 2001; Section 13366, Division 7, Water Code)

7. San Juan Creek Watershed Bacteria Study *(Jeremy Haas)*

On September 24, staff received the first quarterly report form the County of Orange for the San Juan Creek Watershed Bacteria Study, funded per SWRCB contract 9-182-190-0. The objectives of the contract are to survey concentrations of indicator bacteria in the watershed, determine the sources of bacteria at problem areas, and to compare two laboratory techniques of source identification. During the quarter, bacteria data were collected from 37 sites within the San Juan Creek watershed, including 7 storm drains, 27 in-stream sites, and 3 ocean sites. From this data four problem areas were identified for additional monitoring and bacteria source identification. Staff understands that data with analyses will be included in the next quarterly progress report. At the September meeting of the USACE San Juan Creek Watershed Study Team, a summary of the data was

presented which showed that bacteria levels at the outfalls generally greatly exceeded the Rec 2 standard, but that levels in San Juan Creek, Oso Creek, and Trabuco Creek were variable and levels in the ocean waters met water quality objectives.

8. Aliso Creek 13225 Directive for an Investigation of Urban Runoff, 2nd Quarterly Progress Report *(Jeremy Haas)*

On October 31 the County of Orange, on behalf of the Cities of Aliso Viejo, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, and Mission Viejo, submitted the second quarterly progress report covering July, August, and September. The report includes monitoring data, activities taken during the quarter and planned actions. On November 6, staff met with the Copermittees to discuss the report and planned activities. The copermittees stressed the difficulty of controlling wildlife and nonpoint sources of fecal coliform, expressed dissatisfaction with the use of fecal coliform as an indicator of threat to recreational use, and raised questions regarding the ability to manage the regeneration and transport of fecal coliform through the storm sewer system. Staff attempted to steer the meeting's conversation toward the use and evaluation of best management practices.

Summary of Receiving Waters Data: Monitoring data were collected for 15 weeks and analyzed in three 5-week intervals. Data was collected at roughly 40 storm drain outfalls and approximately 25 feet upstream and downstream of each outfall. Rec-1 was not met at any outfall or receiving waters, and Rec-2 was met less frequently than during the previous quarter. Relative to last quarter, mean fecal coliform levels have increased in the storm drains and receiving waters and the average flow from the storm drains has decreased. Analyses show that discharges from most storm drains impact the quality of water immediately downstream of the discharge.

REC 2 Summary for Second Quarterly Progress Report

Monitoring Location	Weeks 11-15 REC 2 met	Weeks 16-20 REC 2 met	Weeks 21-25 REC 2 met	Total REC 2 met
Storm drains	0 of 33 (0%)	1 of 35 (3%)	1 of 34 (3%)	2 of 102 (2%)
Upstream	13 of 29 (45%)	16 of 32 (50%)	10of 32 (32%)	39 of 93 (42%)
Downstream	7 of 32 (22%)	7 of 33 (22%)	9 of 33 (27%)	23 of 98 (23%)

Copermittees' Response to Monitoring Data: Nine storm drains have been identified as priority systems by five copermittees. Each copermittee also described actions taken during the quarter, including facilities maintenance, street sweeping, education, and illicit discharge detection and enforcement. The Cities of Laguna Beach, Laguna Woods and the County of Orange each indicated that they do not have storm drain outfalls that meet the monitoring selection criteria, and thus they did not develop an action plan specifically for a storm drain system. Each will continue education and source identification measures within their jurisdictions. Notably, three cities (Laguna Beach, Laguna Woods, Mission Viejo) report hiring enforcement staff and two (Lake Forest, Laguna Niguel)

report distributing notices to homeowners associations regarding Tentative Order 2001-193. In addition, the newly incorporated City of Aliso Viejo also included a draft strategic plan for stormwater management that is based on Tentative Order 2001-193.

As a result of facility maintenance activities during the quarter, the copermittees have identified three suspected sources of coliform: waterfowl at three dissipater basins, feces from small mammal residents in one underground system, and suspended and accumulated sediment at several sites. Prior to developing management actions for these sources, they propose to continue monitoring flow and coliform for the next two quarters in order to assess relationships of coliform levels to flow and seasonal changes.

Planned Water Quality Enhancements: The copermittees state their intention to manage urban runoff water quality problems using the same regional approach as is used for flood control and drainage systems. Continued implementation of the Drainage Area Management Plan (DAMP) will be the primary strategy for achieving the maximum extent practicable (MEP) standard. Other strategies specific to the Aliso Creek Watershed discussed in the Report include two educational programs and several structural controls along tributaries and the main stem of Aliso Creek. The two educational programs are in the conceptual stage. Of the structural controls, three will use Proposition 13 funds and two will use funds from the Clean Beach Initiative.

9. Industrial Storm Water Inspections (*John Phillips*)

The USEPA has provided funds to the State to be used to increase the number of industrial storm water inspections conducted in southern California. There are approximately 650 – 700 industries regulated under the statewide General Industrial Storm Water Permit, Order No. 97-03-DWQ, within the jurisdiction of the San Diego Regional Board. Many of these industries contribute to urban runoff and related pollution problems. There are an unknown number of industrial facilities that should be regulated under the Industrial Storm Water Permit, but have not obtained coverage. A statewide effort to identify the "non-filers" is currently underway.

The USEPA has assigned one of its contractors, Tetra Tech, to conduct storm water inspections and municipal storm water audits on behalf of three southern California Regional Boards. Tetra Tech staff conducted a total of 67 industrial storm water inspections of facilities located within the San Diego Region from September 25 to October 5, 2001. Inspection reports for 65 facilities have been submitted to Regional Board staff for review. The inspection reports consist of the inspector's field notes, inspection report, a Storm Water Pollution Prevention Plan checklist, site photographs, and pertinent Regional Board file material. Tetra Tech will provide the last two reports when they are complete.

Tetra Tech staff also developed a ranking system for prioritizing Regional Board follow-up actions, including recommendations for enforcement actions. Twelve facilities have water quality or other significant violations and are the highest priority for follow-up inspections and appropriate enforcement. Thirty-six facilities have a variety of lessor

violations (such as not having the pollution prevention plan on site) and/or low 'threat to water quality' violations and are a medium priority for follow-up actions. The rest of the facilities, seventeen in all, are generally in compliance with the regulations and do not require any follow up actions at this time.

Regional Board staff will be visiting each of the twelve high priority facilities and recommending appropriate enforcement action. The medium priority facilities will be subject to site visits and/or enforcement action based on staff's review of the inspection reports. A copy of the inspection report will be provided to every inspected facility.

Regional Board will also be reviewing all facilities that have not been inspected in the last six months and re-prioritizing those for future inspections. Tetra Tech staff should be available in January or February to continue inspections in this Region. It is expected that Tetra Tech will inspect about 200-250 facilities within this Region.

10. Update on Caltrans District 12, Toll Road Enforcement Activities *(Christopher Means)*

State Route 73

On July 20, 2001 the SDRWQCB issued Caltrans Cease and Desist Order No. 2001-198 for violations of their Statewide Storm Water Permit. The CDO required Caltrans to begin corrective action to repair or replace the existing treatment units, develop and implement an inspection and maintenance program for the units, and monitor three of the units to determine how well they actually function with proper maintenance.

Caltrans has been working diligently this summer to restore the structural treatment units to their operational condition. Examples of the improvements made to the units from one year ago are shown in the attached photographs (B-10). Caltrans completed weed abatement activities at all 20 sites, and where needed, added or replaced compost media, cleaned inlet and outlet bays, repaired damaged dissipaters, cleaned and repaired underdrain systems and removed sediment from media surface. The photograph of the CSF 506r unit also shows one of the three monitoring stations established by Caltrans to assess the effectiveness of the CSF units. The sampling stations are located at sites in the Laguna Canyon, Aliso Creek, and Oso Creek watersheds.

Caltrans has further proposed a tentative schedule for the eventual replacement of the filter units with alternative treatment technologies along the entire length of State Route 73. Construction of the first nineteen BMP's is expected to be completed by spring 2003. The remaining sites, which require more design work and permitting, are scheduled for completion by spring 2004. Caltrans is required to inspect and maintain the existing filters until such a time that they are replaced.

State Route 241

A citizen complaint was made during public comment at the July 18, 2001 Regional Board meeting regarding erosion occurring along the Foothill Toll Road (SR-241) in Orange County. The complaint alleged that gully erosion was occurring beneath bridge structures along the toll road due to poorly designed bridge drains. Subsequently, your

staff inspected the portion of SR-241 within the jurisdiction of the San Diego Regional Board and found gully erosion under bridges crossing Tijeras Creek, Trabuco Creek, and Aliso Creek.

In response to staff's directive, Caltrans submitted a technical report proposing corrective measures to prevent further erosion from occurring under these three bridges. Staff, however, found the schedule for implementation of the proposed actions at the Trabuco Creek and Tijeras Creek locations to be unacceptable, and on October 31, 2001 staff directed Caltrans to develop a plan for providing at least interim measures to address the erosion problems at these sites.

11. Directive for Leak Detection and Recent Cleanup Activities at the Mission Valley Terminal *(Kelly Dorsey)*

In early November, the Mission Valley Terminal (MVT) responsible parties (RPs) were directed by the Executive Officer to establish and maintain a monitoring program to detect releases to soil and groundwater from the tanks and integrally related piping. The directive was issued pursuant to the Aboveground Petroleum Storage Act, California Health and Safety Code section 25270.7. According to the statute, the RPs have 360 days to install and implement the leak detection systems at the facility. Contamination exists in the soil and groundwater at the Terminal and offsite at and beyond Qualcomm Stadium. The cause of the contamination was one or more releases of petroleum hydrocarbons from the aboveground tank systems at the Terminal. The impacted aquifer has important designated beneficial uses including municipal. Further, the City of San Diego has potential plans to develop this aquifer for a drinking water supply within the next 15 to 20 years. In order to protect the waters of the state from additional releases of petroleum hydrocarbons from the Terminal, release detection systems are needed at the facility.

Since October 2000, the RPs and Regional Board staff have held monthly meetings to discuss the progress and direction of the investigation and remediation activities at the site. The RP's have installed several multi-level groundwater monitoring wells to delineate the vertical extent of the contamination. Preliminary sampling detected MTBE in the aquifer as deep as 95 feet below ground surface. Remediation activities have expanded at the site with the installation and operation of soil-vapor and groundwater extraction wells. Currently, groundwater is being extracted and treated from seven wells and soil vapor is being extracted from three wells at the site. Soil vapor extraction wells clean up residual hydrocarbons in the "smear zone", so called because the annual rising and falling of the water table smears free product throughout this section of the soil column. This system will reduce the mass of hydrocarbons (free product) in soil that leach to the groundwater. The groundwater extraction wells aid the soil vapor extraction system by de-watering the smear zone and exposing the free product to airflow. The RPs have proposed a plan to test the efficiency of the remediation system at the site within the next few months. After completion of the test, the efficiency of the remediation system will be evaluated and modifications and/or additions will be made to optimize its

operation and to ensure containment of the dissolved phase plume and reduction of source zone contamination.

12. Convair Lagoon PCB Problem *(Kristin Schwall)*
Sediment containing PCBs were first discovered in Convair Lagoon of San Diego Bay in the early 1980s. The PCBs were originally attributed to the Teledyne Ryan Aeronautical (TRA) site located on Harbor Drive. TRA and the Port District investigated and cleaned the storm drains on the TRA facility and further upstream several times since the PCBs were discovered. One storm drain was completely replaced. In 1998, a sand cap was installed in Convair Lagoon to contain the PCB contaminated sediment. However, elevated PCB concentrations have recently been found in the sediment on top of the sand cap and in the storm drain system during 2000 and 2001. The PCBs do not appear to be coming from below the sand cap. It appears that PCBs are still being discharged from the storm drains. Consequently, further investigation is necessary to determine the source(s) of the discharge. By letters dated November 5, 2001, staff directed the current lessee of the TRA site, the Port District, the City of San Diego, and the Marine Corps Recruit Depot to investigate their storm drains and property which discharge to Convair Lagoon. The technical reports on the investigation are due January 4, 2002.

13. State Route 125 South Toll Road Lawsuit *(Kristin Schwall)*
The Regional Board approved the 401 Water Quality Certification for the State Route 125 South Toll Road Project on April 23, 2001. The Army Corps of Engineers issued a Section 404 Permit for the Toll Road, on July 27, 2001.

On October 16, 2001, a lawsuit was filed by the Center for Biological Diversity, Preserve South Bay, San Diego Audubon Society, Sierra Club, and Preserve Wild Santee against the Federal Highway Administration, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers. The lawsuit asks, in part, that the judge order the following:

- Fish and Wildlife Service to withdraw its biological opinion;
- Federal Highway Administration to re-consult with Fish and Wildlife over the effects of the Toll Road on listed species and critical habitat;
- Federal Highway Administration to enter into and complete consultation with Fish and Wildlife on the effects of the Toll Road on the Otay Mesa Mint;
- Federal Highway Administration to withdraw the EIR and ROD for the Toll Road;
- Army Corps of Engineers to withdraw the Section 404 Permit for the Toll Road; and
- Federal Highway Administration be enjoined from "authorizing, approving, funding, grading, constructing, or otherwise expending resources towards the construction of the toll road ..."

USEPA was not named in the lawsuit because they objected to the project because of the impacts on water quality and wildlife in the Sweetwater and Otay Rivers, their associated tributary streams, and on the wetlands and vernal pool habit found in those watersheds.

Caltrans is still researching how the lawsuit is likely to affect construction and other aspects of the project.

14. Landfill Status

Dixon Dam Landfill – Complaint *(Carol Tamaki and John Odermatt*)

On August 30, 2001, the Regional Board Executive Officer issued a written request, under authority of Water Code Section 13267, for the City of Escondido to provide specific technical information concerning this site to the Regional Board. The City of Escondido provided a report to the Regional Board on October 1, 2001. On October 25, 2001, Regional Board staff performed a site inspection with representatives from the Local Enforcement Agency (County of San Diego). The Regional Board staff is currently evaluating the information provided by the City of Escondido and observations made during the recent site inspection. On November 2, 2001, Regional Board staff received a phone call from a private citizen (Mr. Jesse Dye), who had originally addressed the Regional Board during the public forum at the August 2000 meeting, concerning conditions at the Dixon Dam site. Regional Board staff discussed with Mr. Dye the progress made to date. The staff will continue update the Regional Board in future Executive Officer Reports.

Gregory Canyon Landfill *(Carol Tamaki and John Odermatt)*

On September 26, 2001 the Regional Board staff met with the consultant to Gregory Canyon Limited and the County of San Diego Local Enforcement Agency (LEA) to discuss revisions to the Joint Technical Document (JTD) provided to the agencies in July 2001. The consultant indicated that a number of revisions would be made to the document, including: additional groundwater monitoring wells to enhance leak detection capability, enhancement of the storm water conveyance system, clarification of supporting hydrogeological and geotechnical information, and addition of a double composite liner system to the revised landfill design. On October 18, 2001, the Regional Board staff received draft modifications to the Joint Technical Document (JTD) including: 1.) revised design options for the proposed liner system, 2.) updates and revisions to the information regarding water supply wells and beneficial uses of groundwater in proximity to Gregory Canyon, and 3.) modifications to the proposed groundwater monitoring system. On November 2, 2001, the Regional Board staff met with representatives from the County of San Diego staff to discuss their concerns regarding the EIR and progress on the completion of CEQA (EIR) process for the Gregory Canyon Landfill project. The Regional Board staff is evaluating the draft revisions from the consultants to the discharger and information on the draft EIR provided by the County of San Diego. The staff will continue update the Regional Board in future Executive Officer Reports.

Anza Landfill *(Amy Fortin, Craig Carlisle and John Odermatt)*

On October 30 at 11:56 PM Pacific Standard Time a 5.1 magnitude earthquake was centered approximately 8 miles ESE of the Anza Landfill in Riverside County. Reports of perceived shaking and estimates of potential damage compiled by the U. S. Geological Survey and the California Institute of Technology (Cal Tech) indicate that the area within approximately 20 to 30 miles of the epicenter received "strong" perceived shaking and

were rated "light" for potential damage. Regional Board staff will schedule an inspection during the week of November 12, 2001 to assess the potential for the earthquake to have damaged the landfill and to determine the adequacy of the discharger's inspections and maintenance actions. Areas to be evaluated for potential damage include: water lines, groundwater-monitoring wells, gas monitoring and collection system, and landfill cover. In addition, the potential for a release of leachate or increase in gas will be evaluated. The staff will continue update the Regional Board in future Executive Officer Reports.

Forster Canyon Landfill *(Amy Fortin and John Odermatt)*
San Diego Regional Board Order 94-106 identifies the County of Orange and San Juan Meadows L.P. as dischargers responsible for the Forester Canyon Landfill located in the City of San Juan Capistrano. On November 5, 2001, the County of Orange provided the Regional Board with the second in a series of technical submittals for developing corrective action alternatives at the Forster Canyon Landfill. The technical submittals are being provided to the Regional Board in compliance with a schedule developed in response to a written request from the Executive Officer under authority of Water Code Section 13267. The Regional Board staff will continue to evaluate the submittals as they are received from the dischargers. In future Executive Officer Reports, the staff will continue to provide the Regional Board with updates on the development of corrective actions for the Forster Canyon Landfill.

Otay Class III Landfill *(Brian McDaniel and John Odermatt)*
On July 2, 2001, under the authority of Water Code Section 13267 the Regional Board requested that Otay Landfill Inc. (OL a subsidiary of Allied Waste Inc.) submit proposed plans to manage existing low-level radioactive wastes and monitor the actual or potential impacts of radioactive wastes discharged at the Otay Class III landfill. By letter dated, September 28, 2001, OLI indicated that neither the California Department of Health Services Radiological Health Branch (DHS) nor the County Department of Environmental Health has made a final determination of the short-term or long-term management requirements. Because there has not been a final determination by the agencies, OLI indicated that it is not possible to prepare a management plan or monitoring plan.

In reply to the September 28, 2001 letter, Regional Board staff issued Notice of Violation (NOV) No. 2001-321 on October 15, 2001 for the failure to provide adequate information in response to request by the Regional Board, a violation of Water Code Section 13267. The initial response did not include an adequate plan for waste management and a proposed plan for monitoring surface water and groundwater, and leachate for impacts of radioactive wastes discharged at the landfill.

By letter dated, October 18, 2001, OLI submitted a recommendation for monitoring groundwater and surface water for radiological parameters at the landfill. OLI has recommended that groundwater analyses include Radium-226 (^{226}Ra) and Radium-228 (^{228}Ra) collected from the groundwater monitoring wells (OTGW-17 and OTGW-25) located nearest the downgradient edge of the area containing the low-level radioactive

wastes. In addition, OLI proposed to include ^{226}Ra, ^{228}Ra, gross alpha, and gross beta in the data collected from surface waters (at NPDES sampling locations) at OTX-1, OTX-2, OTY-2 and OTY-4.

By a letter dated October 19, 2001, DHS indicated that based upon the concentrations and quantities of ^{226}Ra, the Otay Landfill would meet the criteria for a licensable facility with restrictive use. Alternatively, DHS has indicated that they would consider releasing the site from restrictions if the radioactive constituents exist in concentrations that occur naturally or at background. Should OLI wish to pursue a release of the facility from restrictions, the DHS requests a comprehensive radiological characterization survey of the site. The Regional Board staff plans to request that OLI amend the Joint Technical Document/Report of Waste Discharge (JTD/ROWD) submitted March 30, 2000 to include groundwater and surface water sampling for radiological parameters. The amended JTD/ROWD should include the monitoring of groundwater wells OTGW-17 and OTGW-25; in addition to NPDES sampling points OTX-1, OTX-2, OTY-2 and OTY-4 for ^{226}Ra, ^{228}Ra, gross alpha, and gross beta sampling. In future Executive Officer Reports, the staff will continue to provide the Regional Board with updates on the development of management alternatives for low-level radioactive wastes at the Otay Class III Landfill.

San Marcos Landfill *(Carol Tamaki and John Odermatt)*
On September 26, 2001, the County of San Diego was notified that the Regional Board staff is preparing an addendum to Cease and Desist Order No. 98-39. On October 3. 2001, the County of San Diego provided the Regional Board staff with revisions to their proposed schedule for closure of the San Marcos Landfill. The Regional Board has received written notification from the state clearing house that San Diego County intends to prepare CEQA documents for the closure of the San Marcos Landfill. The County of San Diego staff has verbally indicated to the Regional Board staff that they will propose to construct an alternative to the prescriptive final cover design required by Title 27 CCR. A draft version of Addendum No. 1 to Cease and Desist Order No. 98-39 was sent to the County of San Diego on November 9, 2001. The Regional Board staff plan to include an agenda item for consideration of Addendum No. 1 to Cease and Desist Order No. 98-39 by the Regional Board on December 12, 2001. The staff will continue update the Regional Board on the progress in closing the San Marcos Landfill in future Executive Officer Reports.

Naval Air Station North Island (NASNI) Soil Treatment Facility *(Craig Carlisle)*
Naval Air Station North Island (NASNI) operates a Class II waste management facility that is used to treat petroleum hydrocarbon contaminated soils. The Regional Board adopted waste discharge requirements for this facility in February 1996 (as Order No. 96-18). As part of the FY 2001/2002 Waste Discharge Update Program, Order No. 96-18 is being updated to address current State and Regional Board policies and regulations. The Regional Board staff will include tentative Order No. 2001-324 on the meeting agenda for consideration during the December 12, 2001 board meeting. The tentative order will update and supercede Order No. 96-18, if adopted by the Regional Board.

Burn-ash Sites *(Craig Carlisle and John Odermatt)*
Cal-EPA has convened a work group including the State Water Resources Control Board (SWRCB), Department of Toxic Substances Control (DTSC) and the Integrated Waste Management Board (CIWMB) to address various issues related to the management of wastes from burn-ash sites. Cal-EPA has compiled a list of 527 burn-ash sites statewide of which 53 sites are located within the San Diego Region. Residual wastes associated with these sites commonly contain elevated and/or hazardous concentrations of metals (*e.g*., lead, copper, chromium, *etc*.). Depending upon the site-specific location and nature of the wastes, the threat to water quality from these sites may be significant. The staff will continue update the Regional Board in future Executive Officer Reports.

Some recent activities by the Regional Board staff are summarized below:

SWRCB Statewide Burn-ash Site List
The San Diego Regional Board staff provided input to the State Water Resources Control Board (SWRCB) program management regarding water quality issues at specific sites located in the San Diego Region. There is a continuing dialog between the management staff from the SWRCB Land Disposal Program, Department of Toxic Substances Control (DTSC) and the Integrated Waste Management Board (CIWMB) regarding regulatory involvement at burn-ash sites. Recently, the SWRCB staff indicated that legislative hearings on burn-ash sites would be convened during November 2001.

City of San Diego Webster Elementary School
The Noah Webster Elementary School was constructed in 1954 to 1955 on a site that was previously used for disposal and burning of municipal solid waste. When the school was constructed, it is believed that waste was moved to the west portion of the site, now a playground area, and covered with fill. In February 2001 the California Integrated Waste Management Board (CIWMB) conducted an investigation that included sampling of wastes from the site. The CIWMB concluded that the waste is covered with approximately 5 to 15 feet of clean fill and that the cover, unless disturbed, is adequate to protect public health and safety. The analytical results from samples of the wastes indicate that the burn ash material should be classified as a California hazardous waste if it were ever to be excavated for disposal, primarily due to the elevated concentrations of metals.

The San Diego Unified School District (SDUSD) currently has plans to build a new library and parking lot on a portion of the site that may overlie burn ash material. The SDUSD is working with the Regional Board, Department of Toxic Substances Control (DTSC), and Local Enforcement Agency (City of San Diego LEA) to develop a work plan designed to further investigate the former burn site, evaluate the potential threat to public health and the environment, and identify potential remedial response actions. On October 24, 2001, the Regional Board staff hosted a meeting between representatives from the LEA, the SDUSD, and DTSC. A preliminary review of available information

by Regional Board staff indicates that short-term water quality concerns may exist during construction, but that long-term water quality impacts may be minimal at this site.

County of San Diego San Ysidro burn-ash Site
The Regional Board staff has prepared a tentative order to remove the San Ysidro burn-ash site from general waste discharge requirements adopted by the Regional Board as Order 97-11. The County of San Diego provided a site closure report, including results from confirmation sampling, to demonstrate that the residual burn-ash wastes have been removed from the San Ysidro site. The Regional Board staff concurred with the conclusion by the County of San Diego that it is no longer necessary to regulate residual burn-ash wastes at the San Ysidro site. The Regional Board staff will include Addendum No. 2 to Order 97-11 as an agenda item for consideration by the Regional Board at the next meeting on December 12, 2001

15. San Marcos Landfill, Remand of Administrative Civil Liability Order No. 2000-82 *(Rebecca Stewart)*
On February 15, 2001 the State Water Resources Control Board adopted Order No. WQ 2001-01, remanding Regional Board Order No. 2000-82 for further findings and modifications by the Regional Board. Specifically, the State Board determined that the Regional Board has not provided adequate justification for the calculation of the number of days of violation for the County of San Diego's failure to submit the October-December 1998 quarterly progress report, required by Cease and Desist Order No. 98-39, and for the County of San Diego's failure to maintain the required 24" of cover on the top deck of the landfill.

Regional Board staff has recently met with representatives of the County of San Diego regarding the matter and is proceeding with the issuance of a revised Complaint. It is anticipated that a hearing regarding the matter will be held at the December Board meeting.

16. Compliance Assurance Report, 3rd Quarter (July1 – September 30) of 2001 *(Rebecca Stewart)*
Attached (B-16) are the 3rd quarter of 2001 reports (July 1- September 30) on Discharger Violations by Agency (14 pages) and Enforcement Actions by Program Type (3 pages). These reports were prepared using data from the new SWIM (System for Water Information Management) Compliance Module database, and list in detail all the violations and enforcement actions entered into the module that occurred during the 3rd quarter of 2001. There were 55 violations and 23 enforcement actions entered during the period. The table below summarizes the violations determined during the 3rd quarter as well as the enforcement actions taken during the period. This table provides a better idea of the work completed by the Regional Board during the period. Note that the number of violations that occurred during a recent period does not necessarily reflect the actual number of violations due to reporting time lags.

As you may know, the SWIM Compliance Module is a statewide database developed and maintained by the State Board. The current version has been used since February 2001

and replaced the previous compliance database (referred to as SINC-System for Information on Non-Compliance) in use since July 1999. Since the decommissioning of SINC numerous difficulties have arisen that have excluded data entry of violations and enforcement actions relating to the following programs and/or functions: construction and industrial stormwater, 401 certification, underground/aboveground tanks, sewage spills, Department of Defense and SLIC (spills, leaks, investigations and cleanup), complaints, and delinquent fees. State Board is aware of these entry problems and is working to improve access to include these programs.

In late November Regional Board staff will also be attending training classes regarding use of the new database. It is anticipated that after all staff have completed training on the new system, the number of violations entered in a timely manner will increase dramatically.

Violation Type	Violations Determined During Quarter	Enforcement Conducted During Quarter					
		Informal			Formal		
		Staff Level	Notice of Violation	13267 Letter	Time Schedule Orders*	Mandatory Minimum Penalty	Admin. Civil Liability
Category 1 Pollutant	24	1					
Category 2 Pollutant	4	1					
Other Effluent Violation	7	4					
Chronic Toxicity	0						
Acute Toxicity	0						
Non-effluent Permit Violation	1						2
Failure to Submit/Deficient Report	15						
Compliance Schedule	0	5					
Pretreatment	0						
Sanitary Sewer Overflow	1	8					
Unregulated Discharge	3			1			
Release to Groundwater	0						
Failure to Notify per Requirement	0						
Failure to Pay Fees	0						
Failure to Obtain Permit	0						
Previous Enforcement Action	0			1			
Basin Plan Prohibition	0						
Other	0						
Total	**55**	**19**		**2**			**2**

17. San Diego Municipal Storm Water Permit Update *(Phil Hammer)*

On October 18, 2001, the State Water Resources Control Board (SWRCB) issued a draft order (Attachment 1) on the Building Industry Association and Western States Petroleum Association petitions of the San Diego Municipal Storm Water Permit (Permit). The draft order dismissed the majority of the petitions' arguments and largely upheld the requirements of the Permit. Three changes to the Permit were proposed by the draft order (see Attachment B-17a, final page).

San Diego Regional Water Quality Control Board (SDRWQCB) staff reviewed the draft order and provided its comments to the SWRCB (Attachment B-17b). These comments were limited to those portions of the draft order which proposed changes to the Permit. Staff member Phil Hammer and Chairman Minan also provided oral comments to the SWRCB during its public workshop on the matter on October 31, 2001.

Following the October 31, 2001 public workshop, the SWRCB reissued the draft order with modifications addressing issues brought up at the public workshop (Attachment B-17c). Some of these modifications to the draft order specifically addressed SDRWQCB staff concerns, while others addressed issues brought forth by other interested parties. The draft order, in its current form, is not anticipated by staff to significantly impact implementation of the Permit. Changes to the Permit proposed by the draft order essentially provide clarification to the Permit, as opposed to significantly changing the requirements or intent of the Permit.

The SWRCB will consider adoption of the draft order at its Board Meeting on November 16, 2001. Staff will provide an update on the status of the Permit in the next Executive Officer Report.

18. Update on Trash in Chollas and Paleta Creeks *(Phil Hammer)*

The last two Executive Officer Reports included discussions of the trash problem in Chollas and Paleta Creeks. To address this problem, Regional Board staff has corresponded with the City of San Diego and the City of National City regarding contributions of trash to the creeks from their storm water conveyance systems. In two letters, Regional Board staff directed the City of San Diego and the City of National City to submit reports covering how the cities plan to address the Chollas and Paleta Creek trash problem. These Regional Board letters were sent under the authority of the San Diego Municipal Storm Water Permit (Order No. 2001-01), which requires cities to develop and implement additional best management practices (BMPs) in the event that storm water conveyance system discharges are found to cause or contribute to an exceedance of water quality standards.

On October 19, 2001, the City of San Diego and the City of National City submitted the required reports covering how the cities plan to address trash in Chollas and Paleta Creeks at present and in the future. Staff is currently reviewing these reports for adequacy. An update on the results of the review of these two reports will be provided in the next Executive Officer Report.

19. State Revolving Fund (SRF) Loan Program *(Adam Laputz)*
The State Water Resources Control Board, Division of Clean Water Programs (Division) has informed staff that based on current projections, the SRF Loan Program will soon be unable to process loan disbursements. Previously approved SRF projects may stop construction until adequate SRF funds are available, and new projects may not be able to proceed without SRF monies. Based on the Division's current projections, the available cash in the SRF will be depleted sometime in December 2001.

The SRF Loan Program provides low interest loans to local communities for the construction of wastewater treatment facilities and non-point source and estuary projects. As part of the administration of this program, the Division projects that it will need additional revenues during fiscal year 2001-2002 to cover anticipated cash flow. To address this need, at State Board direction, the Division is working with the Trade and Commerce Agency to develop a $200 million revenue bond program to leverage the SRF. Based on the expectation of a $200 million infusion, the program will continue to recommend projects for funding. Unfortunately, the bond sale contracting process has been significantly delayed. The program had anticipated a bond sale in the September/October timeframe. The bond sale is now projected to occur in March 2002 at the earliest. No money will be available until bonds are sold or next year's (FY 02/03) federal capitalization grant is received.

The Division has recommended a plan to address the shortage of SRF dollars that involves maximizing the available federal money and requesting major loan recipients to delay fund disbursement requests until the cash flow shortage has been resolved. Currently, the only agency affected in Region 9 is the City of San Diego. The City has six ongoing projects that have contracts for SRF monies totaling $35 million, scheduled to be disbursed during the next six months. The City has enough funds to continue current projects without requesting immediate disbursement of SRF monies, and will delay requesting disbursement of SRF monies until the cash flow shortage is resolved. It is not anticipated that any other ongoing SRF contracted projects in Region 9 will be affected. Staff will be monitoring the SRF shortage until it has been resolved.

20. Aliso Creek - Proposed Structural Treatment Systems (*Jeremy Haas)*
The County of Orange has been awarded Clean Beach Initiative (CBI) funds, to be managed by SWRCB, for two structural treatment systems along Aliso Creek. Staff anticipates being asked by SWRCB to comment this quarter on the proposed projects. The CBI proposal outline indicated that the treatment systems would control bacteria from urban runoff as a mid-term solution to reducing beach closures at Aliso Beach. Details regarding the type of treatment (e.g., ultraviolet) and any potential filtration have not been announced and were not specified in the CBI proposal outline received by staff. The proposed locations are near the South Coast Water District's Coastal Treatment Plant (CTP) to treat 0.5 million gallons per day (MGD) and at the J01P28 storm drain outfall in the City of Aliso Viejo to treat 0.2 MGD. These projects tentatively include two phases. In Phase 1 water will be treated and returned to Aliso Creek. Portable structural treatment systems made by Clear Creek Systems, Inc., the manufacturer of the ultraviolet

treatment system used in Laguna Niguel at the J03P02 storm drain outfall, will be used at both locations. In Phase 2, the County plans to pursue reuse options for the diverted water. Tentative plans call for the downstream CTP site to transmit the 0.5 MGD to a chlorine treatment chamber where it will be blended with 1.0 MGD of secondary effluent from the Coastal Treatment Plant and transmitted to the Aliso Creek Inn Golf Course for irrigation. At the J01P28 site, the County is working with the Moulten Niguel Water District for reuse applications, but none have been formally proposed. The County expects to begin CEQA and water appropriation permit activities in November 2001. Staff is concerned that treatment to remove pollutants other than bacteria, such as may be necessary for reuse applications, may generate a waste stream which may not meet receiving water quality objectives.

The treatment systems funded by the Clean Beach Initiative will satisfy a condition placed upon Orange County by the California Coastal Commission for the temporary summertime diversion of Aliso Creek to the sanitary sewer outfall from May 1 to October 15, 2001. Ironically, the findings in support of the Commission's action are tentatively scheduled for adoption at the December 2001Commission hearing, and the diversion did not occur this year. The condition for water quality enhancements states that the County shall commit funding toward the implementation of at least two water quality enhancements within the Aliso Creek watershed. One project must include "treatment of 0.5 MGD of water with a Clear Creek System, or equivalent filtration unit, and in consultation with the wildlife resource agencies...possible reclaimed use of the treated water at the Aliso Creek Golf Course." The other project must include treatment at the discharge point to Aliso Creek from the J03P13 storm drain outfall or comparable location. Based on data collected in response to the SDRWQCB 13225 Directive for an investigation of urban runoff in Aliso Creek, the County has selected J01P28 as a comparable location to J03P13.

The potential impact on the water quality of Aliso Creek is unknown, especially since details regarding pollutants of concern other than bacteria have not been identified. The system proposed near the CTP, which is about 1 mile upstream from the mouth, will be sized to treat approximately 15 percent of the dry season flow. The proposed system at the J01P28 outfall would be sized to treat all of the anticipated dry weather flow, which corresponds to approximately 13% of the dry season flow at that point in Aliso Creek. For comparison, the Clear Creek system used at the J03P02 storm drain outfall to Sulphur Creek treats all of the dry weather flow, corresponding to approximately 11% of the total flow in Sulphur Creek, but is reported by the copermittees to Cleanup and Abatement Order 99-211 to have no significant impact on the fecal coliform levels in Sulphur Creek.

21. Sweetwater Authority—Withdrawal of Complaint No. 2001-12 *(Paul J. Richter)*
By letter dated November 5, 2001, the Executive Officer has withdrawn Complaint No. 2001-12 and dropped the Mandatory Minimum Penalties (MMP) imposed on Sweetwater Authority. The Complaint was issued for alleged violations of numerical discharge limits of copper in Order No. 99-30. The Complaint was withdrawn after Sweetwater Authority

provided adequate documentation to show that the copper concentration in its discharge is in compliance with the discharge specifications in Order No. 99-30.

Sweetwater Authority investigated the accuracy of the laboratory analyses performed by its contract laboratory, Montgomery Watson. Sweetwater Authority provided split samples of its effluent discharge for analysis by Truesdail Laboratories, Inc., United States Geological Survey Laboratory, Columbia Analytical Services, Inc., and Environmental Engineering Laboratory. During its review of the laboratory analyses, Sweetwater Authority found that the copper analyses from its contract laboratory were consistently higher than the other laboratories.

Sweetwater Authority provided documentation that the copper concentrations in its discharge is in compliance with the discharge specifications in Order No. 99-30. A copy of Sweetwater Authority's letter dated, September 28, 2001, and a partial copy of Sweetwater Authority's documents submitted at the October Regional Board meeting are attached.

Mr. Bill Ray, Quality Assurance Program Manager, Division of Water Quality, SWRCB, reviewed the analytical data for all five laboratories. Mr. Ray, in a memorandum dated October 31, 2001, confirmed that the Montgomery Watson laboratory data was biased high by including interference from sodium when reporting the concentration of copper. A copy of Mr. Ray's memorandum is attached.

Upon review of the data and after consulting with Mr. Ray, staff agreed that the copper concentrations reported and cited in Complaint No. 2001-12 could reasonably be considered in compliance. The Executive Officer withdrew Complaint No. 2001-12 by letter dated November 5, 2001 (copy attached). Staff also recommended that Sweetwater Authority contract with a laboratory that is capable of eliminating any interference in analytical work.

22. 401 Certifications and the City of San Diego Canyon-a-Month Sewage System Cleaning Project *(Mike Porter)*

The City of San Diego Metropolitan Wastewater Department's Sewage Spill Prevention Program has ongoing maintenance activities throughout their jurisdiction. One of these activities is what the City calls the, "Canyon-a-Month Cleaning Project". This project started during June 2001. This project involves the preventative maintenance of older sewer pipes in the canyons of San Diego. Approximately 40 areas have been identified for maintenance in the City. Since most of these pipes are gravity flow design, they tend to be in the bottom of canyons or canyon tributaries. Unfortunately, canyon bottoms *usually, but not always,* tend to be Jurisdictional Waters and/or Wetlands of the U.S. and Waters of the State. The maintenance proposed may impact Jurisdictional Waters/Wetlands by excavating (dredging) and/or temporary filling to accomplish piping maintenance objectives. Filling and dredging of Waters/Wetlands of the U.S. requires a 404 or similar permit from the Army Corps of Engineers and a corresponding 401 Certification from the State (either SWRCB or RWQCB level).

The Regional Board staff is pleased with the City's preventative maintenance endeavor. However, it is welcomed with trepidation based on the City's previous performance with respect to repairing damage to streambeds and habitats caused by prior sewer system maintenance events.

On October 5, 2001, seven Regional Board staff, the Army Corps of Engineers, the California Department of Fish & Game and the U.S. Fish & Wildlife Service met with many City staff regarding the environmental permitting for the Canyon-a-Month Project. The Regional Board and other resource agencies expressed concerns about the required proper permitting for the Project. The City agreed that proper permits would be applied for. Regional Board staff also told the City that it may issue Waste Discharge Requirements to ensure proper damage repair if there appears to be regulatory gaps in jurisdiction by other agencies. Additionally, Regional Board staff recommended that proper construction erosion and sediment control measures be implemented at the sites. The City assured Regional Board staff that erosion and sediment control is part of their planned activities.

To date, the City has applied for 401 Certification at four sites, completed maintenance activities at one site and started maintenance activities at two other sites.

Staff will be following up the meeting with a letter to the City summarizing the discussion and directing the City to submit NOI for all future canyons. Staff will update the Regional Board on the status of the canyon projects in the future.

23. Monitoring and Reporting Program No. 2001-277 for City of San Diego to Investigate and Monitor for Coliform Impairment to Mouth of San Diego River and Dog Beach *(Mike Porter)*

Previously, we notified the Board Members of our directive to the City of San Diego to investigate and monitor for coliform impairment to mouth of San Diego River (currently 303(d) listed) and Dog Beach. The City has met our deadlines for submission of reports and workplans to address the impairment.

Prior to submission of the October 1st, 2001 Report and Workplan, the City implemented a Dog Beach cleanup and enforcement plan. This consisted of additional waste bins and plastic bags for dog feces collection, the addition of leased areas, the enforcement of an existing City ordinance requiring the owner to cleanup after their dog and community dog beach cleanup days. These additional steps by the City have apparently reduced the level of fecal coliform and enterococci levels by an order of magnitude and in some instances, two orders of magnitude.

The Basin Plan Beneficial Use standards for Recreational Contact 1 (REC-1) bacteria levels are 200 MPN and 104 MPN for fecal coliform and enterococci, respectively. During June and July 2001, before the City began implementing the new plan, the sample results collected by the County of San Diego, Department of Environmental Health were

commonly in the mid-hundreds MPN range to several thousand MPN range for fecal coliform and enterococci, respectively. After the City implemented its cleanup plan, the numbers have dropped to the low tens range MPN to low 100s range MPN for fecal coliform and enterococci, respectively. It should be noted that the County moved its fixed sampling station 25 yards south of the mouth of the San Diego River. Nonetheless, these numbers reflect clean up efforts have been effective considering the new sampling area is now located in very popular section of Dog Beach that is heavily used for recreation by dogs, swimmers and surfers.

Staff will continue to work with the City on this issue and may consider revising the City's proposed sampling and monitoring strategy to determine the sources of fecal coliform impairment to the mouth of the San Diego River – if those impairments still exist.

24. Interagency Meeting Regarding Confined Animal Facilities *(Mo. Lahsaie)*
On September 26, and October 4, 2001, your staff met with the representatives from the County of San Diego Department of Agriculture Weights & Measures (Pesticide Regulation Program & Egg/Poultry Division), County Department of Environmental Health (Vector Control and Storm Water Programs), U.S. Department of Agriculture Natural Resources Conservation Service (NRCS), and the University of California-Riverside Cooperative Extension Poultry Science Area Advisor. The purpose of these interagency meetings was to discuss the agencies' responsibilities over the confined animal facilities (CAFs) in San Diego County.

Staff convened the meeting after receiving several telephone calls in recent months from residents complaining about odor, flies and possible manure runoff problems at poultry and hog farms in Ramona and Valley Center communities. Staff has noted a significant increase in the number of complaints regarding these types of facilities. Staff investigations have revealed that the following factors are contributing to the increase in number of complaints: a) expansion of CAF operations and consequently greater generation of manure waste piles at their facilities, b) less frequent removal of their waste piles from their facilities, and c) recent rapid urbanization in the vicinity of these facilities.

The participating agencies concluded that conducting a region wide workshop to inform the CAF industry of their regulatory obligations would be worthwhile. We have tentatively scheduled the workshop for November 27, 2001.

25. Interagency Regulatory and Enforcement Agreement to Protect and Preserve Vernal Pools in San Diego County *(Mo. Lahsaie)*
On October 3, 2001, staff of the Regional Board held an interagency meeting with the representatives of local, state and federal agencies and discussed the regulatory and enforcement issues pertaining to the protection and preservation of vernal pools in San

Diego County. Vernal pools are a unique natural resource within our region. The main complexes of remaining pools occur in the Otay Mesa area, Ramona, MCAB Miramar, MCB Camp Pendleton, and a few isolated locations in Orange and Riverside counties. Designated beneficial uses from the Basin Plan associated with vernal pools include RARE, WILD, and WARM.

Representatives of the County of San Diego department of Planning and Land Use (DPLU), California Department of Fish & Game, U.S. Fish and Wildlife Service, and the Vernal Pool Society attended the meeting. To protect and preserve the vernal pools in San Diego County, the participating agencies agreed on the following regulatory responsibilities:

County permits that are discretionary including subdivision maps, use permits, grading permits greater than 200 cubic yards and site plans are subject to review under the California Environmental Quality Act (CEQA). Through the requirements for public review and mitigation, there is the ability for public input and requirements for mitigation if vernal pools are impacted

County Permits that are ministerial including building permits are reviewed for potential impacts to vernal pools through the use of an aerial photographic map on which parcels that support vernal pools have been mapped. If a vernal pool is present on the site, the County works with the property owners and the U.S. Fish & Wildlife Service to resolve the issue.

The County does not require permits for grading less than 200 cubic yards in volume. Therefore, the County has no jurisdiction over filling vernal pools if it takes less than 200 cubic yards. If an endangered species is known from the site, the U.S. Fish & Wildlife Service may take jurisdiction if the species is impacted by some activity. However, if there are no federally listed endangered or threatened species on the site, they have no jurisdiction.

The Regional Water Quality Control Board may take jurisdiction over any vernal pool as "waters of the State" under the Porter Cologne Water Quality Control Act.

Vernal pools previously received a degree of protection through the 404/401 permitting process. However, as a result of the Solid Waste Agencies of Northern Cook County (SWANCC) court decision, vernal pools are now considered "isolated" waters and are not subject to 404/401 permits. California Department of Fish and Game also does not have regulatory authority over vernal pools through Streambed Alteration Agreements since they do not demonstrate a defined bed and bank. If no state or federally listed species are present, the only state or federal regulatory agency that has authority over vernal pools is the Regional Board.

The Regional Board has the option of regulating the remaining pools through the issuance of waste discharge requirements, as vernal pools, as waters of the State.

26. Ramona Unified School District Proposed Elementary School Project *(Mo. Lahsaie)*
During the Public Forum at the October 24, 2001 Regional Board meeting 3 residents from Ramona commented on the potential water quality impacts that may result from the Ramona Unified School District acquisition of land in Ramona for a proposed elementary school project near Boundary Avenue. The three speakers requested that the Board look into the possibility of impacts to water quality from the project.

Staff has initiated an investigation and contacted the representatives of the Neighborhood Alliance for a visit to the area of concern on November 9, 2001.

Regional Board staff will update the Regional Board on the status of the investigation and any actions necessary to protect water quality.

27. Annual Fee Collection Status Report 1993-2000 *(Vicente Rodriguez)*
Pursuant to Water Code Section 13260, each person for whom waste discharge requirements have been prescribed are responsible to submit annual fees according to the fee schedule established by the State Water Resources Control Board.

Each year the State Water Resources Control Board bills dischargers on behalf of the Regions for collection of fees. However, a portion of the fees is not submitted. As of October 2001, uncollected fees from 1993 through 2000 totaled $465,000 for the San Diego Region and approximately $ 2.2 million dollars statewide for the Non-chapter 15, NPDES, Industrial / Construction Storm Water, and Chapter 15 programs. Nonpayment impacts our budget, places a burden on other law-abiding dischargers or the general fund and demonstrates a lax regulatory program. The San Diego Region's Compliance Assurance Unit recently evaluated uncollected annual fees.

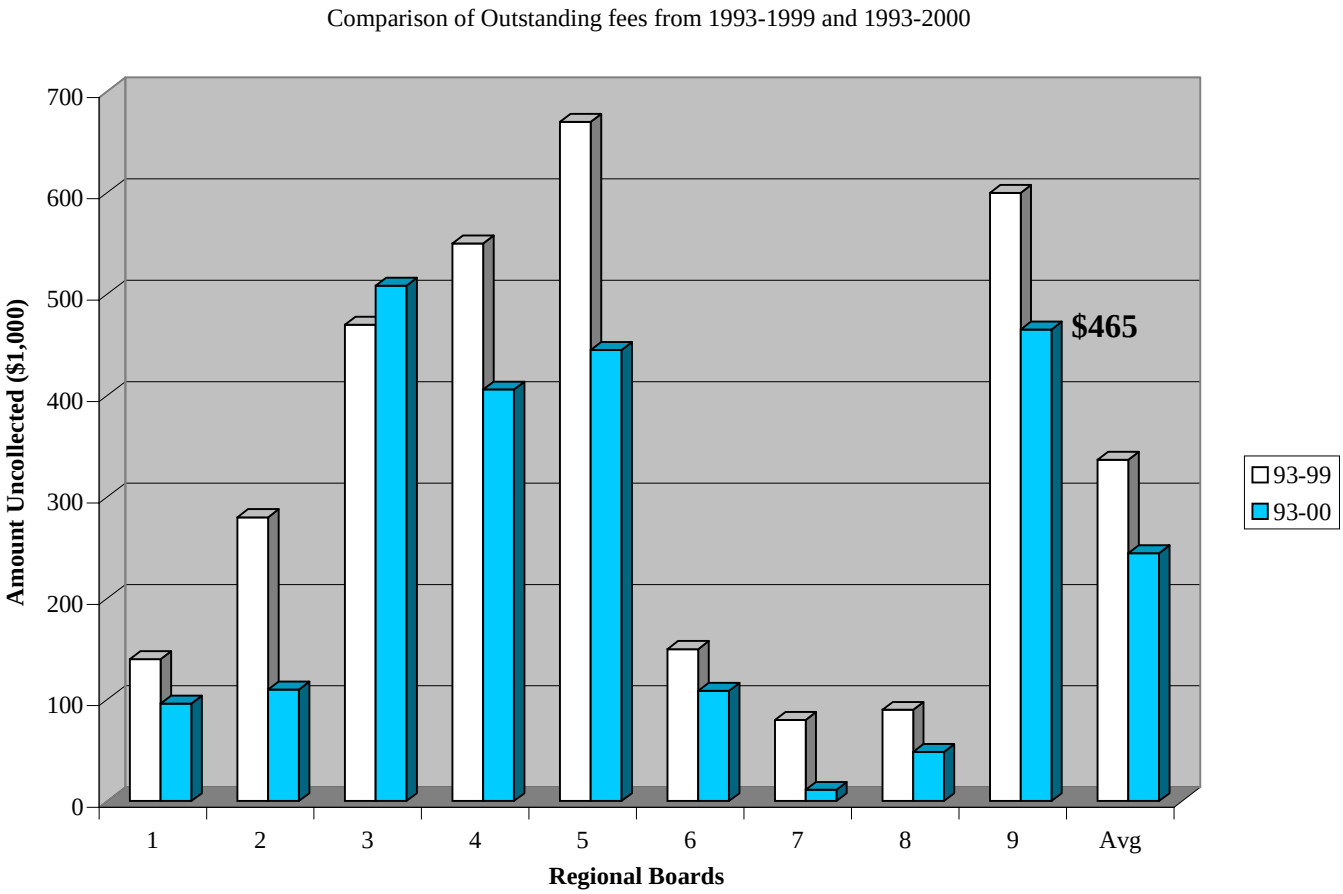
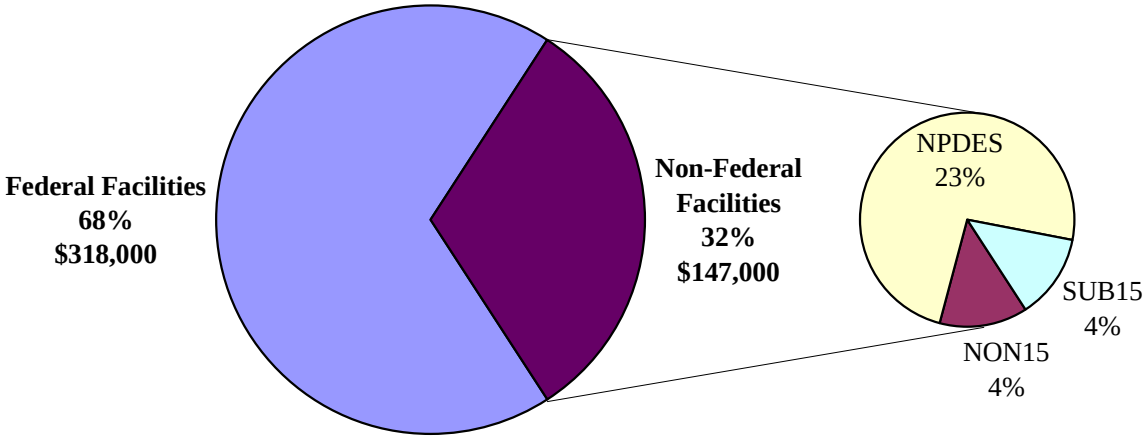


Fig 1: Distribution of unpaid annual fees statewide as of October 16, 2001 for Fiscal Year July 1, 1993 - June 30, 1994 through Fiscal Year July 1, 2000 - June 30, 2001 compared to Fiscal Year 93-94 through Fiscal Year 99-00.

Program Distribution of Unpaid Annual Fees
Of the unpaid annual fees 68% is from Federal facilities ($318,000) and 32% from non-Federal facilities ($147,000). Outstanding debts on Federal facilities is significant and we do not plan to ignore them. We will be evaluating the options the Regional Board has and will bring them to the Regional Board for consideration. Some of the options may include referral to Attorney General or US EPA.

Region 9 Unpaid Fees for 1993-2000 ($465,000)



Regional Board Collection Effort to Improve Collection of Annual Fees
Beginning in October 2001 staff evaluated the payment history since 1993. Based on this evaluation staff enforcement action letters will be sent to dischargers which have not received staff enforcement letters in the past. The Regional Board recovered approximately $100,000 in 1999, through staff enforcement letters for outstanding fees. The remaining group will receive complaints assessing administrative civil liability from the Executive Officer for failure to pay fees. The Executive Officer may recommend to the Regional Board to rescind waste discharge requirements for dischargers, who fail to pay fees and/or pay Regional Board adopted administrative civil liabilities. The Executive Officer may also recommend that the Regional Board refer the matter to the Attorney General for prosecution or to a collection agency.

The first complaint assessing administrative liability was issued on October 30, 2001 and is scheduled for the December 12, 2001 Regional Board meeting.

PART C
STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. Clean Water Act Section 303(d) List of Impaired Waters – 2002 Update *(James Smith)*
On October 24, 2001 the draft Section 303(d) list of impaired waters was posted on the Regional Board website for public review. Notice of the list's availability was mailed to the agenda mailing list and sent electronically to the e-mail lists of interested parties. The draft list was also presented at the October 24 Board Meeting as an informational item.

No formal action was expected or taken. A revised draft list and Staff Report, incorporating all comments made by board members and the public on October 24 was submitted to the State Board on October 31, 2001. The revised list was also posted on the website.

As requested by Board Members Black and Baglin, staff plans to prepare a press release and transmit an additional (third) notice of the draft list to the regulated community designed specifically to draw their attention to the release of the list and its potential implications. Staff will also contact representatives of the County of Orange directly to point out the proposed listing of Dana Point Harbor for dissolved copper. Additionally a story on the draft list aired on channel 10 news on October 30, 2001 and was covered in a Union Tribune article on November 7, 2001. The article is attached (C-1) for your review.

The posting of the draft Section 303(d) list on the website began the informal local public review process. A public workshop, originally scheduled for November 29, is planned for December 5, 2001. Any changes to the list resulting from public comments and continued Regional Board scrutiny will be forwarded to the State Board and will be presented at a future Regional Board meeting. The opportunity to make changes will continue through the formal public review process that will be conducted by the State Board and is expected to begin this winter. State Board will initiate the formal public review process and will be conducting the formal public workshop(s), public hearing(s) and will adopt a single, statewide list of impaired waters for submittal to USEPA.